

SUBCHAPTER C—CONTRACTING METHODS AND CONTRACT TYPES

PART 1313—SMALL PURCHASE AND OTHER SIMPLIFIED PURCHASE PROCEDURES

AUTHORITY: Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 486(c)), as delegated by the Secretary of Commerce in Department Organization Order 10-5 and Department Administrative Order 208-2.

Subpart 1313.1—General

1313.106-70 Technical evaluation and written or oral discussion procedure for negotiated small purchases.

(a) *Technical evaluation.* A technical evaluation may be requested for negotiated small purchases, at the discretion of the contracting officer. The manner and extent of the technical evaluation shall be determined by the contracting officer, except that the technical evaluation shall not be as formal or as extensive as required for procurements above the small purchase dollar threshold.

(b) *Written or oral discussions.* Written or oral discussions may be conducted with all qualified sources which submit quotations for negotiated small purchases. The contracting officer shall determine the manner, extent, and need for written or oral discussions, except that discussions shall not be as formal or as extensive as required for procurements above the small purchase dollar threshold.

[49 FR 12961, Mar. 30, 1984]

PART 1314 [RESERVED]

PART 1315—CONTRACTING BY NEGOTIATION

Subpart 1315.4—Solicitation and Receipt of Proposals and Quotations

Sec.

1315.413-2 Alternate II.

Subpart 1315.5—Unsolicited Proposals

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1315.805-70 Audit as an aid in proposal analysis.

Subpart 1315.9—Profit

1315.902 Policy.

AUTHORITY: Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 486(c)), as delegated by the Secretary of Commerce in Department Organization Order 10-5 and Department Administrative Order 208-2.

SOURCE: 49 FR 12961, Mar. 30, 1984, unless otherwise noted.

Subpart 1315.4—Solicitation and Receipt of Proposals and Quotations

1315.413-2 Alternate II.

The procedures described in FAR 15.413-2 may be used if approved by the Head of the Contracting Activity or designee.

Subpart 1315.5—Unsolicited Proposals

1315.504 Advance guidance.

(a) When it appears that a person or firm is interested in making a proposal, that person or firm should be referred to the head of the contracting office concerned who will provide instructions for submission of an unsolicited proposal.

(b) Heads of contracting offices shall provide instructions for submission of unsolicited proposals to each person or firm which expresses an interest in submitting an unsolicited proposal.

[49 FR 12961, Mar. 30, 1984, as amended at 60 FR 47309, Sept. 12, 1995]

Department of Commerce

1315.902

1315.506 Agency procedures.

(a) Promptly after receipt of an unsolicited proposal which conforms to this regulation, the head of the contracting office shall forward a copy of the proposal along with instructions for technical evaluation of unsolicited proposals to the appropriate program office for technical evaluation. If more than one Department activity has an interest in a proposal, copies of the proposal shall be circulated to each interested office.

(b) Program offices receiving unsolicited proposals for evaluation shall conduct the evaluation in accordance with this subpart 1315.5, FAR Subpart 15.5, and any additional guidance provided by the Office of Procurement and Federal Assistance.

(c) Program offices shall complete the recommendation and evaluations and submit them along with all copies of the unsolicited proposal, and a written justification for a noncompetitive procurement action if appropriate, to the head of the appropriate contracting office within 60 days of receipt of a proposal for evaluation.

(d) No part of an unsolicited proposal shall be duplicated or circulated outside of the evaluation office. Each unsolicited proposal shall be closely safeguarded to prevent disclosure of any restricted data. Only heads of contracting offices or their designees may duplicate unsolicited proposals and then only to facilitate evaluation by more than one technical evaluation office.

[49 FR 12961, Mar. 30, 1984, as amended at 60 FR 47309, Sept. 12, 1995]

Subpart 1315.6 [Reserved]

Subpart 1315.8—Price Negotiation

1315.805–70 Audit as an aid in proposal analysis.

(a) Preaward audits should not be routinely requested for actions below the dollar threshold specified in FAR 15.805–5. Before requesting audits below the dollar threshold, the contracting office should consider using price or cost analysis techniques, recent audit reports, price negotiation memoranda, and other relevant information regard-

ing the offer to establish the reasonableness of price. However, audits should be considered for proposals below the specified dollar thresholds in the following circumstances:

(1) The contracting officer has reason to doubt the adequacy of the contractor's accounting policies or cost systems;

(2) The contractor has substantially changed its methods or levels of operation;

(3) Previous unfavorable experience indicates that the contractor's estimating, accounting, or purchasing methods may be unreliable; or

(4) The proposal concerns a new product for which cost experience is lacking.

[49 FR 12961, Mar. 30, 1984, as amended at 60 FR 47309, Sept. 12, 1995]

Subpart 1315.9—Profit

1315.902 Policy.

(a) Except as provided in (b) and (c) of this section, a structured approach for determining profit or fee prenegotiation objectives shall be used in the negotiation of all contracts, subcontracts, and contract modifications above \$100,000 where adequate price competition does not exist. A structured approach for determining profit or fee prenegotiation objectives may be used at lower dollar thresholds.

(b) Regardless of whether price competition exists, the structured approach for determining profit or fee prenegotiation objectives is not required for negotiation of contracts, subcontracts, and contract modifications for the following:

(1) Architect—engineering contracts;

(2) Management contracts for operation or maintenance of Government facilities;

(3) Construction contracts;

(4) Contracts primarily requiring delivery of material supplied by subcontractors;

(5) Termination settlements;

(6) Cost-plus-award-fee contracts; and

(7) Unusual pricing situations where the structured approach has been determined to be unsuitable. This exception must be justified in writing and signed by the head of the contracting office.

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(c) In many circumstances, an examination of cost and profits is not required. Where adequate price competition exists and in other situations where cost analysis is not required (e.g., established catalog or market prices of commercial items sold in substantial quantities to the general public or prices set by law or regulation), contracts may be awarded without regard to the amount of profit involved.

(d) Additional internal instruction on the use of the structured approach can be found in Procurement Letters or policy manuals issued by the Office of Procurement and Federal Assistance.

PART 1316—TYPES OF CONTRACTS

Subpart 1316.3 [Reserved]

Subpart 1316.4—Incentive Contracts

Sec.
1316.404-2 Cost-plus-award-fee contracts.

Subpart 1316.6 [Reserved]

AUTHORITY: Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 486(c)), as delegated by the Secretary of Commerce in Department Organization Order 10-5 and Department Administrative Order 208-2.

SOURCE: 49 FR 12962, Mar. 30, 1984, unless otherwise noted.

Subpart 1316.3 [Reserved]

Subpart 1316.4—Incentive Contracts

1316.404-2 Cost-plus-award-fee contracts.

(d) *Fee determination plans.* The award fee determination plan shall include both technical performance (including scheduling as appropriate) and business management consideration tailored to the needs of the particular situation. The goals and evaluation criteria should be results-oriented. The award fee should concentrate on the end product of the contract. However, equal employment opportunity, small business programs, and functional management areas, such as safety and security, cannot be disregarded and may be appropriately part of the criteria upon which to base the award fee. Specific goals or

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objectives should be established in relation to each performance evaluation criterion against which contractor performance is measured.

Subpart 1316.6 [Reserved]

PART 1317—SPECIAL CONTRACTING METHODS

Subparts 1317.4-1317.5 [Reserved]

Subpart 1317.70—Contracts for Ship Construction, Ship Alteration, and Ship Repair

Sec.
1317.7001 Solicitation provisions and contract clauses.

AUTHORITY: Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 486(c)), as delegated by the Secretary of Commerce in Department Organization Order 10-5 and Department Administrative Order 208-2.

Subparts 1317.4-1317.5 [Reserved]

Subpart 1317.70—Contracts for Ship Construction, Ship Alteration, and Ship Repair

1317.7001 Solicitation provisions and contract clauses.

(a)(1) The contracting officer shall insert the following clauses in sealed bid fixed-price solicitations and contracts for ship construction, ship alteration, and ship repair.

(i) Inspection and Manner of Doing Work, 1352.217-90.

(ii) Delivery of the Vessel to the Contractor, 1352.217-91.

(iii) Performance, 1352.217-92.

(iv) Delays, 1352.217-93.

(v) Minimization of Delay Due to Government Furnished Property, 1352.217-94.

(vi) Additional Provisions Relating to Government Property, 1352.217-95.

(vii) Liability and Insurance, 1352.217-96.

(viii) Title, 1352.217-97.

(ix) Discharge of Liens, 1352.217-98.

(x) Department of Labor Occupational Safety and Health Standards for Ship Repairing, 1352.217-99.

(xi) Regulations Governing Asbestos Work, 1352.217-100.